

BOB ANTHONY
Commissioner

ED APPLE
Commissioner

CODY L. GRAVES
Commissioner

OKLAHOMA

Corporation Commission

P.O. BOX 52000-2000
OKLAHOMA CITY OKLAHOMA 73152-2000

400 Jim Thorpe Building

Telephone: (405)521-2255
FAX: (405)521-4150

Office of General Counsel



Lawrence R. Edmison, General Counsel

May 14, 1996

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MAY 15 1996

FCC MAIL ROOM

William Caton, Acting Secretary
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RE: CC Docket No. 96-98

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

Please find enclosed an original and sixteen (16) copies of the comments prepared by the Oklahoma Corporation Commission regarding the above-entitled docket. The Oklahoma Corporation Commission, having submitted these comments timely, requests that they be filed and made a part of the record in the above-entitled docket.

We have also forwarded a copy of the comments to the Federal Communication Commission's copy contractor, International Transcription Service, and a copy of the comments on computer diskette (WordPerfect 5.1, 3½ disk) to Ms. Janice Myles.

The Oklahoma Corporation Commission appreciates the opportunity to participate in this rulemaking. Any future correspondence concerning this rulemaking should be sent to:

Maribeth D. Snapp
Deputy General Counsel
Oklahoma Corporation Commission
P.O. Box 52000-2000
Oklahoma City, OK 73152

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Thank you for your cooperation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maribeth D. Snapp".

Maribeth D. Snapp
Deputy General Counsel

cc: International Transcription Service
2100 M Street, N.W., Room 140
Washington, D.C. 20554

Ms. Janice Myles
Federal Communications Commission
Common Carrier Bureau
Accounting and Audits Division
1919 L Street, N.W., Suite 544
Washington, D.C. 20554

FCC 96-182

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of

Implementation of the Local Competition)
Provisions in the Telecommunications Act)
of 1996)
)
)
)

CC Docket No. 96-98

NOTICE OF PROPOSED RULEMAKING

Adopted: April 19, 1996:

Released: April 19, 1996



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INITIAL COMMENTS

OKLAHOMA CORPORATION COMMISSION

Ernest G. Johnson
Director
Public Utility Division
Oklahoma Corporation
Commission
P.O. Box 25000-2000
Oklahoma City, OK 73152-2000
(405) 521-3908

John Gray
Senior Assistant General Counsel
Office of General Counsel
Oklahoma Corporation
Commission
P.O. Box 25000-2000
Oklahoma City, OK 73152-2000
(405) 521-2322

Maribeth D. Snapp
Deputy General Counsel
Office of General Counsel
Oklahoma Corporation
Commission
P.O. Box 25000-2000
Oklahoma City, OK 73152-2000
(405) 521-2259

Submitted: May 17, 1996

COMMENTS BY THE OKLAHOMA CORPORATION COMMISSION

The Oklahoma Corporation Commission ("OCC") strongly supports the Federal Communications Commission's ("FCC") desire to create rules that will facilitate the orderly and rapid introduction of effective competition in the local exchange telecommunications market. Within thirty (30) days after the passage of the Telecommunications Act of 1996, the OCC adopted rules **designed to introduce and encourage competition in the local exchange telecommunications market in Oklahoma.**

The OCC began its process of developing rules to facilitate local telecommunications competition by issuing a Notice of Proposed Rulemaking on August 31, 1995. Over the subsequent months, all interested parties, the OCC Staff, incumbent LECs serving both urban and rural exchanges, interexchange carriers and other prospective competitors, participated in numerous technical conferences. Countless hours were devoted by these participants to the development of rules which would provide the citizens of Oklahoma with the benefits expected to ensue from local exchange competition. These efforts culminated in rules which represent a consensus of all the parties involved. A new Subchapter to the OCC's Telephone Rules was created to address issues specific to

local exchange competition, i.e., unbundling, interconnection, pricing, etc. This new Subchapter 17 is submitted with these comments as Attachment A. Modifications were made to the existing rules to recognize changes in terminology and the new market entrants into the competitive market.

On May 7, 1996, the OCC granted a Certificate of Public Convenience and Necessity to AT&T which authorizes the provision of local telecommunications service as a competitive LEC. A copy of this Order is included with these comments as Attachment B. Four other applications requesting certificates are currently being processed.

The OCC is aware of at least nine companies which are currently negotiating with incumbent LECs and the OCC is monitoring the progress of those negotiations. The OCC stands ready to fulfil its role of arbitrator if any of the negotiations fail to result in agreement between the parties.

The OCC supports the concept of creating a national framework implementing Section 251 of the Telecommunications Act. However, the OCC believes any national rules created by the FCC should serve only as the minimum requirement and that each state should be

able to tailor its rules to fit the particularities of that

The OCC believes that a "one-size-fits-all" prescriptive set of national rules would fail to recognize the individuality of each state and could potentially have an unintended negative effect on competition. Recognition must be given to the fact that rules which address the telecommunications needs of a large predominately urban state may not address the needs of a small predominately rural state. It is the OCC's position that the only way to guarantee effective competition nationwide is to allow each state's regulatory body and market participants to craft rules that address the particularities of that state within the concept of the broad national framework. The OCC is better positioned than anyone else in this country to create rules that best meet the telecommunication needs of **Oklahomans**. Further, the OCC believes that any rules adopted by a state must be consistent with the minimum requirements established by the FCC.

Further, it is the belief of the OCC that states should play a major role in the establishment of any minimum national requirements. Having state input would guarantee that diverse concerns are addressed throughout the rulemaking process. This would also facilitate the understanding of participants and policymakers regarding the concerns of other states and how the concerns are being addressed.

Finally, it is the OCC's position that the comments and suggestions stated herein are consistent with the Telecommunications Act of 1996. The Act clearly leaves some matters to the state for resolution and only certain matters are expressly preempted by the Act.

In conclusion, the OCC supports the FCC's efforts to create a broad, nonprescriptive national framework to the extent the national rules created would serve only as the minimum requirement. Each state should be allowed to craft rules that fit each state's respective individual telecommunications needs.

ATTACHMENT A

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

SUBCHAPTER 17. FACILITATION OF LOCAL EXCHANGE COMPETITION [NEW]

Section

- 165:55-17-1. Rules governing local exchange competition**
- 165:55-17-3. Designation of service territory**
- 165:55-17-5. Obligations of telecommunications service providers to facilitate competition**
- 165:55-17-7. Procedures for negotiation, arbitration and approval of agreements**
- 165:55-17-9. Resale of local telecommunications service**
- 165:55-17-11. Unbundling of incumbent LEC networks**
- 165:55-17-13. Interconnection of networks**
- 165:55-17-15. Reciprocal compensation**
- 165:55-17-17. Number portability and dialing parity**
- 165:55-17-19. Universal Service**
- 165:55-17-21. Universal Service Fund**
- 165:55-17-23. [RESERVED]**
- 165:55-17-25. Costing standards**
- 165:55-17-27. Pricing and imputation standards**
- 165:55-17-29. Carrier of Last Resort/Eligible telecommunications carrier**
- 165:55-17-31. [RESERVED]**
- 165:55-17-33. Verification of compliance**
- 165:55-17-35. Unauthorized transfer of end-users**

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

SUBCHAPTER 17. FACILITATION OF LOCAL EXCHANGE COMPETITION [NEW]

165:55-17-1. Rules governing local exchange competition

The provisioning of local exchange service by any telecommunications service provider subject to the jurisdiction of the Oklahoma Corporation Commission, shall be subject to all requirements of OAC 165:55.

165:55-17-3. Designation of service territory

The Commission shall determine whether a competitive LEC's service territory is in the public interest at the time the competitive LEC seeks certification or proposes changes to its service territory. In determining whether the proposed service territory meets the public interest, the Commission shall consider factors, including but not limited to, the existence and location of the competitive LEC's facilities, the number of potential customers to be served and the potential impact on universal service.

165:55-17-5. Obligations of telecommunications service providers to facilitate competition

(a) **General duty of telecommunications service providers.** Each telecommunications service provider has the duty:

- (1) To interconnect directly with or indirectly with the facilities and equipment of other telecommunications service providers; and,
- (2) Not to install network features, functions, or capabilities that do not comply with established guidelines and standards.

(b) **Obligations of all telecommunications service providers.** Each telecommunications service provider furnishing local exchange services has the following duties:

- (1) **Resale.** The duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services.
- (2) **Number portability.** The duty to provide, to the extent technically feasible, number portability in accordance with requirements established by the FCC.
- (3) **Dialing parity.** The duty to provide dialing parity to competing providers of local exchange and long distance telecommunications services, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance and directory listings, with no unreasonable dialing delays.
- (4) **Access to rights of way.** The duty to afford access to the poles, ducts, conduits, and rights-of-way of such telecommunication service provider to competing providers of telecommunications services on rates, terms and conditions that are consistent with existing laws, regulations and contract rights.
- (5) **Reciprocal compensation.** The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications services.

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

(c) **Additional obligations of incumbent LECs.** In addition to the obligations described in OAC 165:55-17-5(b), each incumbent LEC and any competitive LEC that is treated as an incumbent LEC pursuant to 47 U.S.C. §251(h), has the following duties:

(1) **Negotiations.** The duty to negotiate in good faith the particular terms and conditions of agreements to fulfill the duties described in this Section. The requesting telecommunications service provider also has the duty to negotiate in good faith the terms and conditions of such agreements.

(2) **Interconnection.** The duty to provide, for the facilities and equipment of any requesting telecommunications service provider, interconnection with the incumbent LEC's network as follows:

- (A) For the transmission and routing of telephone exchange service and access service;
- (B) At any technically feasible point within the incumbent LEC's network;
- (C) That is at least equal in quality to that provided by the incumbent LEC to itself or to any subsidiary, affiliate, or any other party to which the incumbent LEC provides interconnection; and,
- (D) On rates, terms, and conditions that are just, reasonable, and nondiscriminatory, in accordance with the terms and conditions of the agreement and requirements of this Section.

(3) **Unbundled access.** The duty to provide, to any requesting telecommunications service provider for the provision of telecommunications services, nondiscriminatory access to network elements required by OAC 165:55-17-11 on an unbundled basis and at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of the agreement and requirements of this Chapter. An incumbent LEC shall provide such unbundled network elements in a manner that allows requesting telecommunications service providers to combine such elements in order to provide such telecommunications services.

(4) **Resale.** The duty to provide resale as follows:

- (A) To offer for resale at wholesale rates any telecommunications service that the incumbent LEC provides at retail to subscribers who are not telecommunications service providers; and,
- (B) Not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of such telecommunications services, except that telecommunications service providers may resell local exchange service only to the same class of customers to which the incumbent LEC sells such services.

(5) **Notice of changes.** The duty to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using the incumbent LEC's facilities or networks, as well as of any other changes that would affect the interoperability of such facilities and networks.

(6) **Collocation.** The duty to provide, on rates, terms and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the incumbent LEC, except that the incumbent LEC may provide for virtual collocation if the incumbent LEC

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

demonstrates that physical collocation is not practical for technical reasons or because of actual space limitations.

(d) Exemptions for rural telephone companies.

OAC 165:55-17-5(c) shall not apply to a rural telephone company until:

- (1) Such company has received a bona fide request for interconnection, services, or network elements, and
- (2) The Commission determines that such request is not unduly burdensome, is technically feasible, and is consistent with established universal service principles.

(A) **Termination of exemption.** In order to terminate the exemption of a rural telephone company, the following must occur:

- (i) The telecommunications service provider making a bona fide request of a rural telephone company for interconnection, services, or network elements shall submit a notice of its request to the Commission.
- (ii) The Commission shall conduct an inquiry for the purpose of determining whether to terminate the exemption under this subsection.

(B) **Limitation on exemption.** The exemption provided by this subsection shall not apply to a request under OAC 165:55-17-5(c) from a cable operator providing video programming, and seeking to provide any telecommunications service, in the area in which the rural telephone company begins providing video programming after February 8, 1996.

(e) Suspensions and modifications for rural telephone companies. An incumbent LEC with fewer than two percent (2%) of the end-user lines installed in the aggregate within the United States may apply to the Commission for suspension or modification of any requirement of OAC 165:55-17-5(b) or OAC 165:55-17-5(c) applicable to network facilities specified in such application. The Commission will grant such application to the extent that, and for such duration as, the Commission determines that such suspension or modification:

(1) Is necessary to:

- (A) Avoid a significant adverse economic impact on users of telecommunications services generally;
- (B) Avoid imposing a requirement that is unduly economically burdensome; or,
- (C) Avoid imposing a requirement that is technically infeasible; and,

(2) Is consistent with the public interest, convenience and necessity.

(f) Time for Commission review. The Commission will issue an Order regarding any application:

(1) For termination of an exemption, pursuant to OAC 165:55-17-5(d), within one hundred twenty (120) days after the Commission receives notice of the request:

(A) The Commission shall terminate the exemption if the request is:

- (i) Not unduly economically burdensome;
- (ii) Is technically feasible; and,
- (iii) Is consistent with established universal service principles.

(B) Upon termination of the exemption, the Commission will establish an implementation schedule for compliance with the request.

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

(2) For a suspension or modification of OAC 165:55-17-5(b) or OAC 165:55-17-5(c), within one hundred eighty (180) days after receiving such application.

(g) **Failure to act on a bona fide request.** Any telecommunications service provider that makes a bona fide request for services or network elements to another telecommunications service provider, but fails to begin the necessary steps to introduce competition in the requested exchange(s) or zone(s) within twelve (12) months after satisfactory unbundling and/or interconnection agreements have been approved by the Commission, shall be liable for the reasonable expenses incurred by the requested telecommunications service provider.

165:55-17-7. Procedures for negotiation, arbitration and approval of agreements.

(a) **Agreements arrived at through voluntary negotiations.** Upon receiving a request for interconnection, services, or network elements pursuant to OAC 165:55-17-5, an incumbent LEC may negotiate and enter into a binding agreement with the requesting telecommunications service provider or providers without regard to the standards set forth in OAC 165:55-17-5 (b) and (c). The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996 (February 8, 1996), shall be filed with the Commission under subsection (e) of this Section.

(b) **Mediation.** Any party negotiating an agreement under this Section may, at any point in the negotiations, ask the Commission to participate in the negotiations and mediate any differences arising in the course of the negotiations. The Public Utility Division shall provide the mediator, unless otherwise directed by the Commission.

(c) **Agreements arrived at through compulsory arbitration.** During the period from the 135th to the 160th day (inclusive) after the date on which an incumbent LEC receives a request for negotiation under this Section, the incumbent LEC or any other party to the negotiation may seek arbitration at the Commission of any open issues. Nothing in this subsection shall preclude negotiating parties from filing a joint application.

(1) **Responsibilities of the applicant with regard to the Commission.** A party that seeks arbitration from the Commission pursuant to this subsection shall, contemporaneously with the filing of its application, provide the Commission all relevant documentation concerning:

(A) The unresolved issues and the position of each of the parties with respect to those issues; and,

(B) Any other issue discussed and resolved by the parties.

(2) **Responsibility of the applicant with regard to other parties.** A party that seeks arbitration from the Commission pursuant to this subsection shall, provide a copy of the application and any documentation to the other party or parties not later than the day on which the application is filed.

(3) **Opportunity to respond.** A nonpetitioning party to a negotiation under this Section may respond to the other party's petition and provide such additional information as it wishes within

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

twenty-five (25) days after the Commission receives the petition.

(4) **Action by the Commission.** When an application for arbitration is filed, the Commission will utilize the following procedures.

(A) The Commission will limit its consideration of any petition under this subsection, and any response thereto, to the issues set forth in the petition and in the response, if any, filed under paragraph (3) of this subsection.

(B) The Commission may require the petitioning party and the responding party to provide such information as may be necessary for the Commission to reach a decision on the unresolved issues. If any party refuses or unreasonably fails to respond on a timely basis to any request from the Commission, then the Commission may proceed on the basis of the best information available to it, from whatever source derived.

(C) The Commission will resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions as required to implement subsection (d) of this Section upon the parties to the agreement, and shall conclude the resolution of any unresolved issues not later than nine (9) months after the date on which the telecommunications service provider received the request under this Section.

(5) **Refusal to negotiate.** The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the Commission in carrying out its function as an arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the Commission shall be considered a failure to negotiate in good faith.

(d) **Standards for Arbitration.** In resolving by arbitration, under subsection (c) of this Section, any open issues and imposing conditions upon the parties to the agreement, the Commission will:

(1) Ensure that such resolution and conditions meet the requirements of OAC 165:55-17-5 and applicable FCC requirements;

(2) Establish rates for interconnection, services, or network elements consistent with OAC 165:55-17-27; and,

(3) Provide a schedule for implementation of the terms and conditions by the parties to the agreement.

(e) **Approval by the Commission and grounds for rejection.** Any interconnection agreement adopted by negotiation or arbitration shall be submitted for approval to the Commission, which will approve or reject the agreement, with written findings as to any deficiencies. The Commission will only reject an agreement, or any portion thereof, if it finds that:

(1) The agreement, adopted by negotiation under subsection (a) of this Section, either:

(A) Discriminates against a telecommunications service provider that is not a party to the agreement; or,

(B) The implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

(2) The agreement adopted by compulsory arbitration under this Section does not meet the requirements of OAC 165:55-17-5 or the agreement does not meet the standards in OAC 165:55-17-27.

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

(f) **Reservation of authority.** Notwithstanding subsection (e), the Commission, consistent with the requirements of 47 U.S.C. §253, shall enforce other requirements of State law in its review of an agreement, including requiring compliance with subchapter 13 of this Chapter.

(g) **Statement of generally available terms.** In conformance with 47 U.S.C. §252(f), SWBT may prepare and file with the Commission a statement of the terms and conditions that SWBT generally offers within Oklahoma to comply with the requirements of 47 U.S.C. §251, and the regulations thereunder and the standards applicable under this Section. In the event SWBT files such a statement, the Commission will:

(1) Approve the statement provided the statement complies with subchapter 13 of this Chapter, OAC 165:55-17-5 and OAC 165:55-17-27 and is consistent with 47 U.S.C. §253;

(2) Complete the Commission's review of SWBT's statement not later than 60 days after the date of such submission, (including any reconsideration thereof), unless SWBT agrees to an extension of the period for such review; or permit such statement to take effect.

(h) **Continued review of SWBT's statement of generally available terms.** In the event the Commission has permitted the statement of SWBT to take effect pursuant to paragraph (2) of subsection (g), the Commission may continue to review said statement after it is effective and the Commission may approve or disapprove said statement if it does not meet the requirements of paragraph (1) of subsection (g).

(i) **Duty to negotiate not affected.** The submission or approval of a statement under subsection (g) shall not relieve SWBT of its duty to negotiate the terms and conditions of an agreement pursuant to OAC 165:55-17-5.

(j) **Consolidation of proceedings.** Where not inconsistent with the requirements of the Federal Telecommunications Act of 1996, the Commission may, to the extent practical, consolidate proceedings under OAC 165:55-17-5 and OAC 165:55-17-7, in order to reduce administrative burdens on telecommunications service providers, other parties to the proceedings, and the Commission in carrying out its responsibilities under the Telecommunications Act of 1996.

(k) **Availability for public inspection.** The Commission will make a copy of each agreement approved under subsection (e) and each statement approved under subsection (g) available for public inspection and copying within 10 days after the agreement or statement is approved. The Commission will charge the fees set forth in OAC 165:5-3-1 to cover the costs of processing an application and copying.

(l) **Availability to other telecommunications service providers.** A telecommunications service provider shall make available any interconnection, service, or network element provided under an agreement approved under this Section to which it is a party, to any other requesting telecommunications service provider; upon the same terms and conditions as those provided in the agreement.

165:55-17-9. Resale of local telecommunications service

(a) **Elimination of resale restrictions.** Except as provided in this Subchapter, each

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

telecommunications service provider has the duty not to prohibit, and not to impose unreasonable or discriminatory conditions or limitations on, the resale of its telecommunications services. Telecommunications services may be resold, either on a stand-alone basis, or as part of a package of services.

(b) **Allowable resale restriction.** A telecommunications service provider that obtains, at wholesale rates, a telecommunications service that is available at retail only to a specified category of end-users may only resell such service to the same category of end-users.

(c) **Incumbent LEC wholesale rates.** Each incumbent LEC has the duty to offer for resale, at wholesale rates, any telecommunications service that the incumbent LEC provides at retail to end-users who are not telecommunications service providers. Wholesale rates of services shall exclude costs attributable to marketing, billing, collection and other costs that will be avoided by the incumbent LEC in providing the service on a wholesale basis.

(d) **Automated Interfaces.** To the extent an incumbent LEC provides itself, its affiliate, or its subsidiary automated interface for purpose of service ordering, maintenance, or repair, it shall make such interfaces available to the extent it protects customer privacy and system integrity, to other telecommunications service providers on rates, terms, and conditions that are just, reasonable and nondiscriminatory. The provision of such interfaces shall not permit access to or manipulation of the underlying systems themselves

165:55-17-11. Unbundling of incumbent LEC networks

(a) Upon receipt of a bona fide request, each incumbent LEC shall enter into good faith negotiations to unbundle its network elements to the exchange(s) and/or zone(s) specifically requested in the bona fide requests. Said unbundling shall be available at any technically feasible point on rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

(b) Subsection (a) of this Section shall not be applicable to a rural telephone company until such time as the Commission has determined that the bona fide request is not unduly economically burdensome, is technically feasible and is consistent with universal service.

(c) Unbundling issues not addressed or resolved by these rules, shall be addressed and resolved through the negotiation and arbitration process provided for in OAC 165:55-17-5 and OAC 165:55-17-7, in a manner consistent with the Federal Telecommunications Act of 1996 and FCC regulations prescribed thereto.

165:55-17-13. Interconnection of networks

(a) Local exchange telecommunications networks shall be interconnected, where technically feasible, so that end-users of any telecommunications service provider can seamlessly send and/or receive calls without any diminution in service quality regardless of the telecommunications service provider selected by the end-user or the called party. Such interconnection shall be made available, when requested by a competing telecommunications service provider, on an unbundled basis

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

equally and on a nondiscriminatory basis.

(b) A telecommunications service provider shall make available any interconnection, service, or network element, provided under an agreement to which it is a party and which has been approved by the Commission pursuant to OAC 165:55-17-7, to any other requesting telecommunications service provider upon the same terms and conditions as those provided in the agreement.

(c) Interconnection issues not addressed or resolved by these rules, shall be addressed and resolved through the negotiation and arbitration process provided for in OAC 165:55-17-5 and OAC 165:55-17-7, in a manner consistent with the Federal Telecommunications Act of 1996 and FCC regulations prescribed thereto.

165:55-17-15. Reciprocal compensation

(a) Local telecommunications traffic shall be terminated on a nondiscriminatory basis for reciprocal compensation. The Commission will not consider the terms and conditions for reciprocal compensation to be just and reasonable unless:

- (1) Such terms and conditions provide for the mutual and reciprocal recovery by each telecommunications service provider of the costs associated with the transport and termination on each telecommunications service provider's network facilities related to traffic that originates on the network facilities of the other telecommunications service provider; and,
- (2) Such terms and conditions determine said costs on the basis of a reasonable approximation of the additional costs of terminating said traffic.

(b) This Section shall not be construed:

- (1) To preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep arrangements); or,
- (2) To require telecommunications service providers to maintain records with respect to the additional costs of said traffic.

165:55-17-17. Number portability and dialing parity

(a) **In General.** All telecommunications service providers subject to OAC 165:55-17-5(b)(2) have the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC. Until the date the FCC issues its regulations to require number portability, number portability will be provided through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. In addition, all telecommunications service providers shall provide dialing parity to enable an end-user to have the ability to route automatically, without the use of any access code, their traffic to the telecommunications service provider of the end-user's designation, regardless of which telecommunications service provider originates or terminates the traffic.

(b) **Additional State Requirements.** To the extent a telecommunications service provider allows

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

an end-user to retain the same telephone number when changing service locations within a wire center, said telecommunications service provider must allow an end-user to retain the same telephone number when changing service locations and telecommunications service providers within a wire center.

(c) **Public Numbering Resources.** Until the date by which telecommunications numbering administration guidelines are established by the FCC, the incumbent LECs shall provide nondiscriminatory access to telephone numbers for assignment to the other telecommunications service provider's end-users. After that date, compliance with such FCC guidelines, plan or rules is required.

(d) **Cost recovery.** The costs of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications service providers on a competitively neutral basis consistent with FCC rules and regulations.

165:55-17-19. Universal service

Universal service is a paramount goal of the Commission's telecommunications policy. The purpose of universal service is to ensure that all end-users have access to basic residential intrastate voice and/or relay service at a reasonable and affordable price.

165:55-17-21. Universal service fund

(a) The Commission hereby establishes a Universal Service Fund ("USF") to preserve and advance universal service in Oklahoma. Every entity which provides intrastate telecommunications services shall contribute, on an equitable and nondiscriminatory basis, for the preservation and advancement of universal service in Oklahoma, in a manner established by the Commission .

(b) Within thirty (30) days after submission of the Commission's Agency Rule Report amending this Subchapter to the Oklahoma Legislature, the Commission shall initiate a docket for the purpose of investigating the definition of basic local service, the calculation of a subsidy of a Carrier of Last Resort, if any, required to support the goal of universal service and to determine any other telecommunications service provider's eligibility for receipt of any funding. Scheduling of the docket shall be designed to complete the Commission's evaluation of universal service within one hundred eighty (180) days of the effective date of this Subchapter, unless otherwise ordered by the Commission.

165:55-17-23. [RESERVED]

165:55-17-25. Costing standards

(a) To facilitate the Commission's ability to arbitrate agreements between telecommunications service providers when negotiations have resulted in a party requesting the Commission to arbitrate,

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

the telecommunications service provider owning facilities that are the subject of arbitration shall provide to the Commission the following cost studies, for those services in dispute, no later than one hundred sixty (160) days after the receipt of a request for negotiation:

- (1) Long-run incremental cost ("LRIC") studies and studies identifying a contribution to common costs for interconnection of facilities and network elements; or,
- (2) Marketing, billing, collection and other costs that will be avoided by the telecommunications service provider for any resold services.

(b) To facilitate the Commission's ability to review and approve negotiated agreements between telecommunications service providers, both parties shall provide to the Commission Staff, within ten (10) days following the request, any information, including LRIC studies, necessary to demonstrate that the negotiated agreement does not discriminate against a telecommunications service provider which is not a party to the agreement.

(c) Nothing in this Section precludes a party from requesting production of cost studies during the negotiation process provided for in OAC 165:55-17-7, nor precludes a party from objecting to such request. Disputes related to such requests or objections may be submitted by either party to the Commission for mediation pursuant to OAC 165:55-17-7(b).

165:55-17-27. Pricing and imputation standards

(a) **Interconnection and network element charges.** The Commission will determine just and reasonable prices for network elements and interconnection of facilities and equipment as follows:

- (1) Prices shall be based on the cost, determined without reference to a rate-of-return or other rate-based proceeding, of providing the interconnection or network element, whichever is applicable;
- (2) Prices shall be nondiscriminatory; and,
- (3) Prices may include a reasonable profit.

(b) **Charges for transport and termination of traffic.** The terms and conditions for reciprocal compensation shall be consistent with OAC 165:55-17-15 and 47 U.S.C. §252(d)(2).

(c) **Wholesale prices for telecommunications services.** Incumbent LECs shall provide wholesale rates for all retail telecommunications services sold to end-users on the basis of the retail rates, excluding the portion thereof attributable to any marketing, billing, collection and other costs that will be avoided by telecommunications service providers in providing the service on a wholesale basis.

(d) **Southwestern Bell Telephone Company imputation.** Southwestern Bell Telephone Company shall charge its affiliates, or impute to itself if using the access for provision of its own services, an amount for access to its telephone service and exchange access that is no less than the amount charged to any unaffiliated IXC for such service.

(e) **Prohibition of subsidization.** A telecommunications service provider may not use services that are not competitive to subsidize services that are subject to competition. With respect to intrastate services, the Commission may establish any necessary cost allocations, rules, accounting

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

safeguards, and guidelines to ensure that no such subsidization occurs.

165:55-17-29. Carrier of Last Resort/Eligible Telecommunications Carrier

Each incumbent LEC is designated as a Carrier of Last Resort for the territory for which it was certified on the date of the adoption of the Federal Telecommunications Act of 1996. For the purpose of eligibility to receive federal universal service support under 47 U.S.C. §214(e), each Carrier of Last Resort is designated as an eligible telecommunications service provider for its respective service territory. An eligible telecommunications service provider shall, throughout its service territory:

- (1) Offer the telecommunications services that are supported by Federal universal service support mechanisms under 47 U.S.C. §254(c), either using its own facilities or a combination of its own facilities and resale of another telecommunications service provider's services, including the services offered by another eligible telecommunications service provider; and,
- (2) Advertise the availability of such telecommunications services and the charges therefor using media of general distribution.

165:55-17-31. [RESERVED]

165:55-17-33. Verification of compliance prior to providing certain In-Region InterLATA services

After SWBT has made application to the FCC for authorization to provide interLATA services originating in any in-region State, the Commission shall verify compliance pursuant to 47 U.S.C. §271(d)(2)(B) with the requirements contained in 47 U.S.C. § 271(c), once SWBT has met the requirements set forth in this Section.

- (1) **Agreement or statement.** SWBT meets the requirements for providing certain in-region interLATA services if it has complied with either subparagraph (A) or subparagraph (B) of this paragraph with regard to its telecommunications system in Oklahoma.

(A) **Presence of a facilities-based competitor.** SWBT complies with the requirements of this subparagraph if it has entered into one or more binding agreements that have been approved under 47 U.S.C. §252 specifying the terms and conditions under which SWBT is providing access and interconnection to its network facilities, for the network facilities of one or more unaffiliated telecommunications service providers providing service to residential and business end-users. For the purpose of this subparagraph, such service may be offered by a telecommunications service provider either exclusively over their own telecommunications facilities or predominantly over their own telecommunications facilities in combination with the resale of the telecommunications services of another telecommunications service provider.

(B) **Failure to request access.** SWBT meets the requirements of this subparagraph if, ten (10) months or more after the date of enactment of the Federal Telecommunications Act of

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

1996 and three (3) months before the date that SWBT makes its application to the FCC under 47 U.S.C. §271 (d)(1), no unaffiliated telecommunications service provider providing services to residential and business end-users has requested the access and interconnection described in OAC 165:55-17-11(b); provided a statement of the terms and conditions that SWBT generally offers to provide such access and interconnection has been approved or permitted to take effect by the Commission. For purposes of this subparagraph, SWBT shall be considered not to have received any request for access and interconnection if the Commission certifies that the only telecommunications service provider, or providers, making such a request have:

- (i) Failed to negotiate in good faith as required by 47 U.S.C. §252, or
- (ii) Violated the terms of an agreement approved under 47 U.S.C. §252 of said Act by the provider's failure to comply, within a reasonable period of time, with the implementation schedule contained in such agreement.

(2) **Specific interconnection requirements.** Within Oklahoma, SWBT meets the requirements concerning specific interconnection requirements pursuant to 47 U.S.C. §271 (c)(2), if:

- (A) SWBT is providing access and interconnection pursuant to one or more agreements described in paragraph (1)(A) of this Section; or,
- (B) SWBT is generally offering access and interconnection pursuant to a statement described in paragraph (1)(B) of this Section.

(3) **Competitive checklist.** The access and interconnection provided or generally offered by SWBT to other telecommunications service providers meets the requirements of 47 U.S.C. §271 (c)(2)(B), if such access and interconnection includes each of the following:

- (A) Interconnection in accordance with the requirements of 47 U.S.C. §251(c)(2) and 47 U.S.C. §252(d)(1);
- (B) Nondiscriminatory access to network elements in accordance with the requirements of 47 U.S.C. §251(c)(3) and 47 U.S.C. §252(d)(1);
- (C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by SWBT at just and reasonable rates in accordance with the requirements of 47 U.S.C. §224;
- (D) Local loop transmission from the central office to the end-user's premises, unbundled from local switching or other services;
- (E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services;
- (F) Local switching unbundled from transport, local loop transmission, or other services;
- (G) Nondiscriminatory access to:
 - (i) 911 and E911 services;
 - (ii) Directory assistance services to allow the other carrier's end-users to obtain telephone numbers; and,
 - (iii) Operator call completion services.

OKLAHOMA CORPORATION COMMISSION
Telephone Rules OAC 165:55

- (H) White pages directory listings for end-users of the other telecommunications service provider's telecommunications service;
- (I) Until the date by which telecommunications numbering plan, administration guidelines, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other telecommunications service provider's end-users. After that date, compliance with such plan, guidelines or rules;
- (J) Nondiscriminatory access to databases and associated signaling necessary for traffic routing and completion;
- (K) Until the date by which the FCC issues regulations pursuant to 47 U.S.C. §251 to require number portability, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with such regulations;
- (L) Nondiscriminatory access to such services or information as are necessary to allow the requesting telecommunications service provider to implement local dialing parity in accordance with the requirements of 47 U.S.C. §251(b)(3);
- (M) Reciprocal compensation arrangements in accordance with the requirements of 47 U.S.C. §252(d)(2); and,
- (N) Telecommunications services are available for resale in accordance with the requirements of 47 U.S.C. §251(c)(4) and 47 U.S.C. §252(d)(3).

165:55-17-35. Unauthorized transfer of end-users

- (a) The unauthorized change of an end-user's service to another telecommunications service provider ("slamming") is prohibited. To discourage the practice of slamming and protect end-users from unauthorized changes in their choice of telecommunications service providers, any election of a end-user to switch telecommunications service providers shall be in writing, in print type of at least 12 point.
- (b) Prior to transferring an end-user to a different telecommunications service provider, the new telecommunications service provider shall obtain written authorization from the end-user; unless otherwise authorized by the Commission, after notice and hearing.
- (c) Willful failure to obtain written authorization of an end-user prior to switching telecommunications service providers shall be punishable as for contempt, pursuant to 17 OS §1 et seq. in the amount of \$500 for each access line for each occurrence.

ATTACHMENT B

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF AT&T COMMUNICATIONS OF)
THE SOUTHWEST, INC., FOR A CERTIFICATE) CAUSE NO. PUD960000056
OF CONVENIENCE AND NECESSITY)
AUTHORIZING THE PROVISIONING OF LOCAL)
EXCHANGE TELECOMMUNICATIONS SERVICES) ORDER NO. 401537
IN OKLAHOMA)

HEARINGS: April 25, 1996 and May 2, 1996, before Robert E. Goldfield,
Administrative Law Judge

APPEARANCES: Robert D. Allen and O. Carey Epps, Attorneys
AT&T Communications of the Southwest, Inc.
Roger K. Toppins and Charles J. Scharnberg, Attorneys
Southwestern Bell Telephone Company
Rick Zucker, Attorney
GTE Southwest, Incorporated
Rick D. Chamberlain and Mickey S. Moon
Assistant Attorneys General
Ronald E. Stakem, Attorney
MCI Telecommunications Corporation
William J. Bullard and Kimberly K. Blaylock, Attorneys
Cross, Pottawatomie, Chouteau and Totah Telephone Companies
Ron Comingdeer, Attorney
Oklahoma Rural Telephone Coalition
John Gray, Senior Assistant General Counsel
Public Utilities Division, Oklahoma Corporation Commission

**FINAL ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY AUTHORIZING AT&T COMMUNICATIONS OF THE
SOUTHWEST, INC., TO FURNISH LOCAL EXCHANGE TELECOMMUNICATIONS
SERVICES IN THE STATE OF OKLAHOMA**

BY THE COMMISSION:

The Corporation Commission ("Commission") of the State of Oklahoma being regularly in session and the undersigned Commissioners being present and participating, there comes on for consideration and action the Application of AT&T Communications of the Southwest, Inc. ("AT&T"), for a Certificate of Public Convenience and Necessity authorizing it to offer local exchange telecommunications services in the State of Oklahoma.

PROCEDURAL HISTORY

On February 29, 1996, following the enactment of The Communications Act of 1996, 47 U.S.C. §§ 101, *et seq.*, AT&T filed an Application with the Commission to obtain a Certificate

of Public Convenience and Necessity to provide local exchange telecommunications services in the State of Oklahoma. AT&T also filed several motions on February 29, 1996, requesting, *inter alia*, that the Commission prescribe the notice to be given of the Application, prescribe a procedural schedule and grant a waiver of AT&T's local exchange tariff and service area designation filings until interconnection agreements between AT&T and Southwestern Bell Telephone Company ("SWBT"), and AT&T and GTE Southwest, Incorporated ("GTE/SW") have been negotiated and finally approved by this Commission.

A copy of the Application and of the AT&T motions were served on SWBT, GTE/SW, the Attorney General of the State of Oklahoma ("Attorney General"), the Attorneys who represent MCI Telecommunications Corporation, ("MCI"), the Oklahoma Rural Telephone Coalition ("ORTC"), Alltel Oklahoma and Oklahoma Alltel, Cross Telephone Company, Pottawatomie Telephone Company, Chouteau Telephone Company and Totah Telephone Company. Motions to intervene, written and oral, were presented by SWBT, GTE/SW, MCI, Cross Telephone Company, Pottawatomie Telephone Company, Chouteau Telephone Company, Totah Telephone Company, ORTC and the Attorney General.

On March 18, 1996, the Commission, by Order No. 400307, determined the notice to be given of the Application, set the procedural schedule and, for good cause shown, deferred the filing of local exchange services tariffs and specific service area designations until a date not less than sixty (60) days prior to the time AT&T intends to commence providing local exchange telecommunications services in the State of Oklahoma. The motions to intervene were also granted, with the Intervenor's being limited in their participation to issues raised by the face of the Application. The specific service areas for AT&T's local exchange telecommunications services will be designated from time to time by service area descriptions filed with the Commission. The AT&T service areas designated by the Application are all of the local exchange areas presently certificated to SWBT or GTE/SW.

The Commission has developed and presented for Gubernatorial and Legislative consideration a set of rules for the introduction of competition in the local exchange telecommunications services market, however, such rules are not yet in effect. On April 16, 1996, the Governor of the State of Oklahoma approved the proposed rules. The Legislature has